

House Energy and Technology Committee Broadband Hearing

Tuesday February 19, 2013

Statement of Michael J. Watza

This brief testimony and the documents referenced below are presented as my own.

My background is that I represent Local Government through my client PROTEC, a consortium of local governmental units including Board member Cities Dearborn, Livonia and Southfield as well as several dozen other communities across Michigan. Our focus is on various local government rights of way interactions with the telecommunications, energy, video and pipeline industries. I also represent from time to time, consumers of broadband, for which in many respects, local government also speaks. My experience in broadband also includes representation and/or involvement with a number of other broadband stakeholders including the Mobile Technology Association of Michigan, NATOA, The Alliance for Community Media and a number of other organizations and communities. I have also had the pleasure recently of teaching Communication Law and Policy at the Michigan State University College of Law as an adjunct professor. (Go Green!)

The title of the hearing today is: "Presentations to provide an overview of the broadband industry in our state and some current issues the industry and consumers encounter."

My emphasis will be on the perspective of the resident and business consumer and the local communities in which we all live.

The Good

1st, it is important to give credit where it is due and to acknowledge that, based upon the advancements in technology brought to all of us to one degree or another by the telecommunications industry, we live in an amazing time in the world of communications. Combined with the internet, today's communications magic reaches even the heights of the Himalayas, prompting no less than Tenzin Gyatso, the current Dalai Lama to comment:

***"Worldwide-communications are eliminating ancient barriers of distance,
language and race".***

<http://www.dalailama.com/messages/world-peace/the-global-community>

It is this success and potential for far more however, that compels a closer look at where we are, where our global competition is presently and where we must be as soon as possible lest we fail to maximize this amazing technology for the benefit of all people at reasonable cost.

I will now offer a very brief picture of the present situation and refer you to just a handful of the many supporting studies and documents from well regarded institutions that underscore and expand upon what I present today. Should any committee member desire further information, please let me know and I will be happy to accommodate such request.

The Problem

At one time, the U.S. stood ahead of or even with our global competitors on the issue of speed, capacity and price for communication services for residents and businesses. Today, we rank 15th to 26th in the world. See two recent studies on the subject here: http://newamerica.net/publications/policy/the_cost_of_connectivity and <http://dl.dropbox.com/u/33013/pandoglobalstudy.pdf>

Have we all fallen behind? No. The good news is that many of our universities and many government entities have kept apace with global development in state of the art fiber based technology. See Gig-U at: <http://www.gig-u.org/> and as a nearby example of same, see MERIT: <http://www.merit.edu/>

However, due in my opinion to profit motives of the industry, residents and businesses have been kept behind.

Why? Well in some real sense, because we have allowed it to happen.

There is no question that the telecommunications industry is jam packed with the technology necessary to propel all of us forward to state of the art communication, just as our global competitors have done and are doing, but the telecommunications industry has instead, been dragging its feet on this issue.

Why? The industry sits on a nationwide copper based system which was installed in many cases over 100 years ago for the purpose of operating our phone system. By carefully stalling regulators at the federal, state and local level, the owners of this 100 year old copper system have been squeezing every last dime out of it, at considerable expense to our residents and businesses. While allowing some (Education and Government) to move forward in some places, the bulk of the customer base (that's you and I) has been left with yesterday's copper based technology.

What is necessary to propel all of us forward? FIBER. Everyone in this business knows that this is the upgrade we require to compete globally. Whether they admit it aloud is another issue. Fiber is being or has been built out to all residents and businesses in South Korea, China, Japan, Germany, France etc. Basically if you look at those countries ahead of us in the studies referenced, they are there because of fiber. And it is not just a roll out of speed and capacity. It is these things in combination with reasonable pricing.

World Bank Study: http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2012/03/22/000333037_20120322235229/Rendered/PDF/676200PUB0EPI0067882B09780821389454.pdf

"City Telecom, a broadband operator in Hong Kong SAR, China, for example, has over half a million homes connected to a fiber network. It offers 1 Gbit/s fiber service for about US\$25 per month."

(By contrast, I pay about 3 x that amount for the best connectivity I can buy in the City of Novi which is limited to about 4Mbps upload, or 4% the speed in Hong Kong)

Why the Foot dragging? It is a profitability issue. It is far more profitable to charge double and triple rates for less than 1/10 the speed and service available by a fiber system, if you can get away with it. And thus far we have let the industry get away with it. Shame on us. For profit industry must answer to its shareholders and they are always looking to maximize profit. That is a noble driver of our economy and no harm in it. But because of this propensity, it is the role of government to sometimes break the logjam caused by market practices, particularly of regulated monopolistic industries owning a chokehold on a product or service. This is good for competition, business and ultimately, all of us. To date, government has not insisted/ordered this upgrade. It is time to correct that oversight.

The Local Community Alternative

Another prong of industry resistance is the effort to protect the age old copper system from competition. Especially high speed competition. From any source.

Such conduct by regulated industry is hardly without precedent. The clearest analogy is the Electric industry. Approximately 100 years ago, the electric industry attempted to protect its monopoly of the electric service business by restricting any new entrants. This included in particular, local communities who desired electricity but were not part of any immediate plans by the private industry to provide it. When some of these local communities attempted to build their own generation system rather than wait another 50 years for the private industry to get around to it, they met significant resistance in the form of restrictive legislation and litigation. So it is again today with broadband. The industry in several states has presented legislation barring local communities from banding together and forming their own broadband system, even where industry has no current plans to build their own. See for instance, 2011 legislation in the Carolinas

<http://www.dailytech.com/South+Carolinas+AntiMunicipal+Broadband+Bill+Passes+ATT+Lobbying+Blamed/article25078.htm> and current legislation in Georgia: <http://www.telecompetitor.com/anti-municipal-network-trend-continues-with-new-georgia-bill/>

Fortunately, that is not the case here in Michigan today. But when the industry moves in one jurisdiction, it is not uncommon to see it move eventually in others. It is important therefore to be on guard for such anti-competitive efforts and incentives.

In the several communities nationally that have attempted to build these systems, litigation and various forms of anticompetitive pricing has been engaged in as well. See the Monticello, Minnesota, example for instance: <http://www.muninetworks.org/content/charter-fights-dirty-kill-competition-monticello>

Why the resistance to competition? Because the prices we see in other countries are available here once the fiber is installed. In Lafayette Louisiana, once the City determined the industry was not going to build the fiber system their business community was crying out for, they built it themselves. The result: service speeds and capacity for prices in line with our global competition. See: <http://arstechnica.com/tech-policy/2010/05/louisiana-fiber-network-running-despite-cable-telco-lawsuits/> and <http://stopthecap.com/2012/04/05/publicly-owned-lus-fiber-launching-gigabit-broadband-for-lafayette-louisiana/>

On February 15, 2013, the FCC released a statement in support of high speed municipal broadband as a needed alternative to industry refusing to provide it. See attached and at <http://www.fcc.gov/document/genachowski-stmt-proposed-state-legislation-restricting-broadband>

It is also interesting to note industry supporters of high speed broadband available through fiber. See Google's project in Kansas City. See article attached and at <http://finance.yahoo.com/news/google-fiber-captivates-kansas-city-200000900.html>

Mobile/Satellite Not a Substitute for Fiber

Industry representatives will say that mobile and satellite technology and services are a viable (cheaper) alternative to fiber. This is simply not the case. Neither mobile nor satellite can achieve the speeds and capacity our global competitors are enjoying and that we require in fiber. Both speed and capacity are a serious challenge for both. This is especially true due to technology issues and spectrum availability and particularly when it comes to upload speeds. While both have an important place in the broadband market place, neither provides the national infrastructure needed for true high speed, high capacity low cost service.

Parenthetically, this means also that there is therefore no credible reason to allow the defacing of entire communities with monolithic medusa like cell towers anywhere and everywhere the industry desires on the accelerated time table pushed by the mobile industry, which coincidentally just happens to have been bought up by the copper based land line telecommunications industry not that long ago.

Conclusion

So we are doing well in the field of broadband communications thanks to technology advances by the Telecommunications Industry and others, but we could be doing much better.

We all deserve and need to be doing at least as well as our global competition and the fact that we are not is cause for great concern.

Google Fiber Has No Problem With Customer Demand

60% of Qualified Users Interested in Signing Up

by Karl Bode Friday 11-Jan-2013 tags: competition · business · alternatives · bandwidth

While a few paid (by Microsoft and AT&T) pundits like Scott Cleland have insisted demand won't be there for Google Fiber, a new survey unsurprisingly finds that Kansas City locals are thrilled about the possibility of symmetrical 1 Gbps for \$70. According to a new survey by Ideas & Solutions! Inc., 60% of those who qualify are very interested in obtaining Google Fiber. The company's studies showed that Google Fiber surpassed broadband incumbents on 11 attributes -- even Google's weakest: consumer privacy protection.

The company saw massive national interest by having cities nationwide vie for Google's attention in order to get deployment. Even after Kansas City was selected, national attention on the network build has been unprecedented for the telecom sector.



"Google Fiber has conducted a remarkable marketing campaign," said Glen Friedman, president of Ideas & Solutions! Inc. "Historically, pay TV 'overbuilders' penetrate about one-third of their marketplace over time. This level of interest in the beginning is unprecedented. For Google Fiber, the challenge moving forward is to do an equally good job on the fulfillment."

That may be easier said than done. As we've seen with handset and tablet shipping and support, Google still has plenty to learn when it comes to customer service. Still, the enthusiasm we've seen for Google fiber speaks not only to the quality of Google's marketing, but to the dissatisfaction many consumers have with existing broadband services.

Industry-Funded Group Says U.S. Broadband Just Fine

by Wendy Davis, Feb 13, 2013, 6:45 PM
broadband

Study after study has shown that the U.S. lags behind other countries when it comes to broadband. Not only are fast connections more expensive in the U.S. than abroad, but many people only have a choice of two broadband providers: their cable company or telecom. Some people don't even have that; an estimated 19 million Americans live in areas that lack all access to broadband, the Federal Communications Commission reported last year.

The sorry state of high-speed Web access in the U.S. has led the FCC to conclude for three years in a row that broadband isn't being deployed in a "reasonable and timely" fashion.

What does this mean in dollars and cents? Consider this stat from the New America Foundation: In Seoul, residents can obtain triple-play Internet-TV-phone service with broadband speeds of 50

Mbps in both directions for less than \$33 a month; in New York City, Time Warner subscribers pay around \$112 a month for triple-play service with download speeds of 15 Mbps.

But one group now says that U.S. broadband isn't as bad as it might seem. The industry-funded think tank Information Technology and Innovation Foundation argues in a report issued this week that the U.S. "has made rapid progress in broadband deployment, performance, and price, as well as adoption." The ITIF says that the price of broadband is "reasonable" considering that the country is "largely suburban."

The report goes on to assert that there is "robust" competition between cable and DSL fiber-based facilities, that entry-level pricing is low and that pricing is progressive, in that people pay more for higher speeds.

The ITIF also questions whether there's really a demand for fast connections. "While gigabit test bed projects ... are important, the idea that most U.S. broadband users currently need networks this fast is simply wrong. Virtually all existing broadband applications run quite well on the average broadband network in most U.S. cities," the report states. "This does not mean that higher speeds may not or will not be needed as new applications emerge, but the notion that nations should massively overbuild most of its networks far ahead of real consumer demand is not wise economics or broadband policy."

Of course, that conclusion seems to discount the enormous enthusiasm that high-speed services are able to generate. Consider, last month, Broadband Reports called attention to a report from Ideas & Solutions! Inc. showing that 60% of people who could receive Google Fiber -- which offers Kansas City residents 1 GB broadband -- say they would like to do so. That study, based on a survey of 1,303 people, also found tremendous enthusiasm for the service, with 88% of respondents saying that Google Fiber is better for IP-based TV apps, and 90% of respondents saying that Google is the better option for cloud-based services.

Read more: <http://www.mediapost.com/publications/article/193484/industry-funded-group-says-us-broadband-just-fin.html#ixzz2LGY4cOTI>

FCC: Broadband Still Not Being Deployed In 'Reasonable And Timely' Fashion

by Wendy Davis, Tuesday, August 21, 2012 6:12 PM

Broadband in the U.S. still isn't being deployed in a "reasonable and timely" fashion, the Federal Communications Commission said on Tuesday in an annual report about high-speed Web service. This report marks the third time in a row the FCC has found broadband deployment lacking.

Specifically, the FCC found that 19 million Americans live in areas that lack access to broadband. That figure, while high, is at least lower than last year, when 26 million Americans lacked the ability to surf the Web on home

broadband lines -- currently defined as Web connections that allow downloads of at least 4 Mbps. Three-quarters of the group without access to home broadband connections live in rural areas, the FCC says.

Even when people have access to high-speed services, they don't all subscribe to them. The FCC reports that just 40% of Americans have wireline Web connections faster than 3 Mbps downstream, while only 64% have connections faster than 768 Kbps downstream (the FCC's pre-2010 definition of broadband).

Why don't people who have access subscribe? Reasons include "lack of affordability, lack of digital literacy, and a perception that the Internet is not relevant or useful to them," the FCC says.

Advocacy groups say the report shows that more competition is needed. "Yet again, the data clearly shows that millions of people are not getting access in a reasonable and timely fashion, and probably never will unless policymakers take this problem seriously," Free Press research director S. Derek Turner said in a statement.

Public Knowledge adds that the decision to allow Verizon to ally with cable companies -- and sell their cable modem service to wireless users -- won't help matters. "This is the clearest sign yet that broadband competition in the US is far from what it should be," Public Knowledge said in a statement.

Two commissioners -- Robert McDowell and Ajit Paik -- dissented from the conclusion that broadband deployment isn't occurring in a reasonable and timely fashion. McDowell, who voted against net neutrality regulations, says he believes that the negative reports about broadband have been used "to create a pretext to justify more regulation."

Paik adds that he thinks the reason broadband lags is that companies are afraid to invest due to "concerns about whether and how Internet Protocol-based ... networks are going to be regulated in the future."

Read more: <http://www.mediapost.com/publications/article/181320/fcc-broadband-still-not-being-deployed-in-reason.html?print#ixzz2LGXtOytY>



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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F 2d 385 (D.C. Cir. 1974).

FOR IMMEDIATE RELEASE:
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STATEMENT FROM FCC CHAIRMAN JULIUS GENACHOWSKI ON PROPOSED MUNICIPAL BROADBAND LEGISLATION

Washington, D.C. – The following statement is attributable to FCC Chairman Julius Genachowski:

“High-speed broadband is vitally important to our global competitiveness and the continued growth of our economy, and we must keep pushing for faster speeds and greater capacity through new investments in broadband networks. This investment has and will come overwhelmingly from the private sector, which is why it’s vital that we continue to focus on policies to incentivize private investment and remove barriers to broadband build-out.

As we’ve recognized in law and policy for many years, public-private partnerships are also essential for driving broadband deployment. Public-private partnerships like the Connect America Fund, which drives universal broadband deployment, and municipal and public-private projects like those in Chattanooga, Tennessee and San Leandro, California are also vital components of our national broadband strategy. Our Gigabit City Challenge and the important work of Gig.U to drive ultra-fast broadband centers for innovation can also benefit from innovative local approaches to broadband infrastructure.

That’s why the National Broadband Plan stated that, when private investment isn’t a feasible option for broadband deployment, local governments ‘have the right to move forward and build networks that serve their constituents as they deem appropriate.’

If a community can’t gain access to broadband services that meet its needs, then it should be able to serve its own residents directly. Proposals that would tie the hands of innovative communities that want to build their own high-speed networks will slow progress to our nation’s broadband goals and will hurt economic development and job creation in those areas. I urge state and local leaders to focus instead on proposals that incentivize investment in broadband infrastructure, remove barriers to broadband build-out, and ensure widespread access to high-speed networks.”

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